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Minnesota Counties

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November 19, 2018

Nathan Cooley  
Rulemaking Coordinator  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, MN 55155-4194

**RE: AMC and SWAA Response to Request for Comments on Planned Amendment of Rules Governing Construction and Demolition Debris Landfills**

Dear Mr. Cooley:

Thank you for the opportunity to comment on the Minnesota Pollution Control Agency (MPCA) plans to amend rules governing construction and demolition debris landfills. Consistent and timely permitting of these facilities is very important to counties to ensure we can continue providing an efficient and cost-effective way for our residents to dispose of construction and demolition debris materials.

The Association of Minnesota Counties (AMC) and Solid Waste Administrators Association (SWAA) support a fair and thorough update to Minnesota rules governing construction and demolition debris landfills for many reasons, including those identified in the request for comments - to provide regulatory certainty, a level playing field, a more efficient permitting process, and improved environmental protections. It is vital for the rules to be based on fact and scientific evidence. The study and analysis of information used to guide the updated rulemaking process and recommendations to logically proceed with rulemaking is what our comments in this letter will focus on.

**Groundwater Study**

Groundwater quality data should be evaluated and reported on by a third party to ensure the evaluation is unbiased and to facilitate concurrence of conclusions. The data should be evaluated in reference to and in accordance with the definition of pollutant as defined in section 103H.005, subdivision 11, based on the Minnesota Department of Health's adopted health risk limits and health risk values. Additionally, groundwater quality data should be evaluated from all construction and demolition debris waste facilities (including lined facilities where 70 percent of this type of waste is disposed of) to determine if elevated levels of pollutants are also present in lined facilities. The evaluation should also consider whether pollutant concentrations may originate from activities not associated with the demolition debris landfill and identify which materials in the construction and demolition waste stream are the source(s) of those pollutants.

**Social and Economic Considerations**

In addition to considering environmental benefits and impacts, the landfill permitting analysis and rulemaking should also consider social and economic factors, the feasibility and practicability of permit/rule conditions, and whether the burden of any resulting tax or fee is reasonable, feasible or practicable. Social and economic considerations should be factored, such as examining how the market will respond if the landfills are closed, replaced with a landfill that is more expensive to update and operate, or replaced with a transfer station that requires hauling of 100 miles or more. Will these actions defer economic development, result in significantly more illegal dumping where a construction and demolition debris landfill may close, or increase permit by rule disposal?

## Recommendations

AMC and SWAA recommend the following practical steps as the construction and demolition debris landfill rulemaking commences:

- Complete a third-party, industry reviewed evaluation and report of groundwater quality data and conclusions regarding the established pollutants of concern, the likelihood of occurrence due to current land use or changes in land use, and the potential health risks related directly to unlined construction and demolition debris landfills.
- Examine results from actions required in the 2005 guidance which intended to provide a consistent waste type, screening and groundwater monitoring data to make informed decisions on what should be addressed in future landfill rules.
- Determine which best management practices will address concerns identified in the report.
- Determine goals for all permittees and which rules are already in place that address concerns and goals.
- Provide consistent definitions for the terms included in the rules (e.g., Intervention Limit – IL, Health Risk Limit – HRL, Health Based Value – HBV, and Risk Assessment Advice – RAA).
- Provide for a process by which the MPCA may identify how to add or modify pollutant monitoring requirements for new pollutants which may be discovered, any emerging pollutants of concern due to new scientific evidence or groundwater trend that may be observed, or changing the pollutant screening threshold that may be found in statute, rule or permit.
- Clearly spell out the process for the efficient and timely permitting of new, and re-permitting of existing, landfills. This should identify the specific roles and responsibilities of all parties in the process, the requirements for a complete application, how discrepancies are resolved, and how the application will be processed, publicly noticed and permit issued in a timely manner. A mechanism for dispute resolution should be included to ensure future disagreement between parties does not result in permit gridlock.
- Create a stakeholder advisory group consisting of county solid waste administrators and other industry stakeholders to work with MPCA staff and provide consistent input to the rulemaking process.

Again, AMC and SWAA appreciate the opportunity to provide comments and input to the rulemaking process for construction and demolition debris landfills. We encourage the MPCA to consider the comments provided in this letter and we also welcome an opportunity to participate in a stakeholder advisory group to continue providing ideas and feedback on this important rulemaking effort. Please do not hesitate to contact us with any questions.

Sincerely,



Susan Morris, Isanti County Commissioner  
*President, Association of Minnesota Counties*



Marcus Zbinden, Carver County Environmentalist III  
*President, Minnesota Solid Waste Administrators Association*

Cc:

Commissioner John Linc Stine, Minnesota Pollution Control Agency  
Representative Dan Fabian, House Environment and Natural Resources Policy and Finance Chair  
Senator Bill Ingebrigtsen, Senate Environment and Natural Resources Finance Chair  
Senator Carrie Ruud, Senate Environment and Natural Resources Policy and Legacy Finance Chair